
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

AMGEN INC.,

Applicant,

v.

CHRISTOPHER P. HILL,

Respondent.

**ORDER ADOPTING REPORT
& RECOMMENDATION**

Case No. 2:14-mc-00908-DN-EJF

District Judge David Nuffer

Magistrate Judge Evelyn J. Furse

The Report and Recommendation¹ issued by United States Magistrate Judge Evelyn J. Furse recommends GRANTING Applicant Amgen Inc.'s ("Amgen") *Ex Parte* Motion² for an Order Granting Third-Party Discovery for use in a Foreign Proceeding pursuant to 28 U.S.C. § 1782 ("Motion"), with the following instructions:

1. The Court orders Amgen to issue immediately to Respondent Christopher P. Hill ("Dr. Hill") a subpoena directing Dr. Hill to produce documents identified in Schedule A to Amgen's proposed subpoena, as modified below, within 14 days following service of the subpoena. The Court orders Dr. Hill to produce the documents accompanied by a signed certification verifying the authenticity of the documents.
2. The Court orders Amgen to issue immediately to Dr. Hill a subpoena directing him to appear within 28 days for deposition to be conducted in accordance with the Federal Rules of Civil Procedure.³

The parties were notified of their right to file objections to the Report and Recommendation within 14 days of service pursuant to [28 U.S.C. § 636](#) and [Fed. R. Civ. P. 72](#).

¹ [Docket no. 20](#), Filed February 24, 2015.

² [Docket no. 6](#), filed December 17, 2015.

³ *Id.* at 1.

On March 10, 2015, Respondent Christopher P. Hill, filed his objection⁴ to the Report and Recommendation (“Objection”). Dr. Hill’s states in his Objection that he “does not object to the magistrate’s finding that Amgen can obtain discovery pursuant to 28 U.S.C. § 1782.”⁵ Instead, he objects “to the scope of discovery suggested in the Report and Recommendation.”⁶ Dr. Hill then proceeds to argue that

[t]he appropriate mechanism for objecting to the scope of discovery requested by subpoena, however, is through objections pursuant to Rule 45(d)(2)(B), Fed. R. Civ. P., or a motion to quash or modify subpoena pursuant to Rule 45(d)(3), Fed. R. Civ. P., after receiving the actual discovery requests, not through objections to the Report and recommendation. Dr. Hill will make objections under Rule 45(d)(2)(B) or file a motion to quash or modify under Rule 45(d)(3), as necessary, after receiving subpoenas from Amgen.⁷

Dr. Hill is correct that objections to the scope of discovery requested by subpoena may be made pursuant to Rules 45(d)(2)(B) and 45(d)(3) of the Federal Rules of Civil Procedure. His argument, however, is unavailing under the present circumstances. Amgen, in its Motion, attached the list of requested documents and other items that will accompany its subpoena (“Amgen’s Document Request”).⁸ Dr. Hill, in his Objection, referenced certain portions of Amgen’s Document Request, and provided the bases for his objections.⁹ Dr. Hill’s objections to the Amgen’s Document Request related to the scope of discovery requested. Judge Furse considered and the Report and Recommendation addressed the arguments of the parties,

⁴ Christopher P. Hill’s Objections to the February 24, 2015 Report and Recommendation of Magistrate Judge Furse, [docket no. 21](#), filed March 10, 2015.

⁵ *Id.* at 2.

⁶ *Id.*

⁷ *Id.* at 2–3.

⁸ [Docket no. 6-1](#).

⁹ *See* Objection at 7–9.

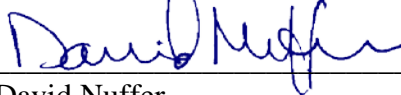
including Dr. Hills' objections to the scope of discovery requested by Amgen.¹⁰ Dr. Hill's contention that he will object "after receiving the actual discovery requests" is disingenuous because Amgen has already provided the list of its requested documents. Rules 45(d)(2)(B) and 45(d)(3) of the Federal Rules of Civil Procedure cannot be used to reargue points already decided.

De novo review of all materials, including the record that was before the magistrate judge and the reasoning set forth in the Report and Recommendation, has been completed. The analysis and conclusion of the magistrate judge are correct and the Report and Recommendation will be adopted.

IT IS HEREBY ORDERED that the Report and Recommendation¹¹ is ADOPTED in its entirety.

Dated March 25, 2015.

BY THE COURT:



David Nuffer
United States District Judge

¹⁰ Report and Recommendation at 6–8.

¹¹ [Docket no. 20](#).